

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RANDY TEJADA,

Plaintiff,

v.

S. CALDERON,

Defendant.

Case No. 1:21-cv-01112-JLT-EPG

ORDER DIRECTING PLAINTIFF TO FILE
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT WITHIN
THIRTY DAYS

Plaintiff Randy Tejada ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On November 23, 2022, Defendant filed a motion for summary judgment. (ECF No. 36). On December 12, 2022, Plaintiff filed a motion requesting a sixty-day extension to oppose Defendant's motion. (ECF No. 37). The Court granted Plaintiff's request and ordered that Plaintiff file an opposition to Defendant's motion for summary judgment by February 21, 2023. (ECF No. 38). To date, Plaintiff has not filed an opposition or statement of non-opposition.

Local Rule 230(l) provides that the failure to oppose a motion "may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions." While a motion for summary judgment cannot be granted by default, *Heinemann v. Satterberg*, 731 F.3d 914, 916 (9th Cir. 2013), the Court does have other options when a party fails to respond. For example, if Plaintiff fails to respond, the Court may treat the facts asserted by

1 Defendant as “undisputed for purposes of the motion.” Fed. R. P. 56(e)(2). Alternatively, if
2 Plaintiff fails to oppose the motion or file a statement of non-opposition, the Court may
3 recommend that this case be dismissed for failure to prosecute and failure to comply with a court
4 order.

5 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that within thirty days
6 from the date of service of this order, Plaintiff shall file an opposition or a statement of non-
7 opposition to Defendant’s motion for summary judgment.

8 IT IS SO ORDERED.

9
10 Dated: **March 31, 2023**

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE